



Paper No. 4

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OFFICE OF PETITIONS

In re Application of :
Purdy et al. :
Application No. 10/046,422 :
Filed: November 7, 2001 :
Attorney Docket No. 2000.082700 :
DECISION GRANTING
PETITION

This is a decision on the petition filed April 18, 2002, to establish that pages 2, 8, and 19 were part of the originally filed application.

On November 7, 2001, the application was filed.

On February 1, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 7, 2001, and advising applicants that pages 2, 8, and 19 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that pages 2, 8, and 19 were deposited on November 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Specification: 29 Pages" on November 7, 2001.¹ Petitioner has also submitted a copy of the missing documentation- pages 2, 8, and 19.

Upon review of the record, pages 2, 8 and 19, deposited on November 7, 2001, have not been located. However, the evidence is convincing that the application papers deposited on November 7, 2001 included the pages, and that the pages were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of pages 2, 8, and 19 submitted with the petition will be used for examination purposes.

The petition fee of \$130 will be credited to the deposit account listed in the petition.

The Notice mailed February 1, 2002, was sent in error and is hereby vacated.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using the application papers filed on November 7, 2001, and the copy of pages 2, 8, and 19 filed on April 18, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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Office of the Deputy Commissioner
for Patent Examination Policy